

**MINUTES**  
**GAMING ADVISORY COUNCIL**

*May 16, 2003*  
*Billings Hotel and Convention Center*  
*Billings, Montana*

Please note: This is a summary of the Council meeting. The meeting in its entirety is on tape at the Gambling Control Division office at 2550 Prospect Avenue, Helena, Montana. Exhibits are on file in the office of the Gambling Control Division.

**COUNCIL MEMBERS PRESENT**

Senator Dale Mahlum, Chairman  
John Tooke  
Nick Murnion  
Tim Carson  
Kevin Howlett, Excused absence

Steve Morris  
Bill Thomas  
Pam Kennedy  
Rep. John Witt

**DIVISION STAFF PRESENT**

Gene Huntington  
Rick Ask

Ben Kamerzel  
Cregg Coughlin

**SUMMARY OF COUNCIL ACTION**

- ◆ **Senator Mahlum was unanimously re-elected Council Chairman. John Tooke was elected Vice-Chairman by acclimation.**
- ♠ **Attorney General McGrath thanked the Council for their work in bringing about a successful legislative session – all Council proposals were enacted.**
- ♣ **The Council discussed issues to be considered in the next 18 months: new games, AARS, problem gambling, tribal compacts, internet gambling and route operator contractual relationships.**
- ♥ **A new subcommittee was appointed on the new games issue – Tim Carson, Chairman, Nick Murnion and John Tooke.**
- ◆ **Sen. Mahlum instructed the Division to work with route operators on the “route operator contractual” issues and then to bring more information on both sides of the issue to the Council.**

♠ The Council tentatively set the next meeting in Polson on August 22, 2003.

### **CALL TO ORDER AND ROLL CALL**

Chairman Mahlum called the meeting to order at 8:30 a.m. All members were present except for Kevin Howlett, who was excused. Senator Mahlum opened the meeting and welcomed members and new members to the Council. Sen. Mahlum then opened the meeting for election of a new chairman. Sen. Mahlum was nominated by Bill Thomas. Pam Kennedy seconded the nomination. There were no further nominations and the Council voted unanimously to re-elect Sen. Mahlum Chairman. John Tooke was elected Vice-Chairman by acclamation. The minutes from the November 15, 2002 meeting were adopted unanimously. The Chairman introduced Mike McGrath.

### **ATTORNEY GENERAL MIKE MCGRATH**

Montana Attorney General, Mike McGrath addressed the Council. The Attorney General thanked the Council for their work. Attorney General McGrath thanked Sen. Mahlum for his assistance during the legislative session and his work on Senate Bill 40. He also thanked the Council for their work in bringing about a successful legislative session where all of their proposals were enacted. Attorney General McGrath complimented the Council on the process they have developed and indicated that it had a great deal to do with the success in the Legislature.

The Attorney General reminded the Council that the Department of Justice still has to provide for an AARS system that is required by law and he asked the Council's cooperation and support in developing the AARS system. He then explained the plans to evaluate the business process of the Division as the first step in planning a new AARS system.

### **ADMINISTRATOR'S REPORT**

Gene Huntington, Gambling Control Division Administrator, provided a report on current activities at the Division. The Administrator indicated that the budget had been funded at the Governor's recommendation which is very similar to current level. The Division continues to have vacant positions and lost money for funding of AARS during the session. Mr. Huntington indicated that video gambling revenue was up 4.93% after the third quarter and that the third quarter set a new record of \$11,677,029. Mr. Huntington reported further that the time for processing a license is now 103 days with most licenses taking between 60 and 90 days. With the implementation of Senate Bill 40 the time for active licenses should decrease substantially. Permit numbers for new machines are running ahead of last year with 19,640 permits to date, as compared to 18,870 last year.

At the conclusion of his report, Mr. Huntington answered questions from Council members concerning the effect of multi-games on permits and other questions regarding state revenues. Mr. Huntington explained that with the implementation of Senate Bill 40 the statistics on the amount of time that it takes to process license applications will change to reflect differences between active and tolled applications.

### **18 MONTH AGENDA**

Mr. Huntington explained a proposed schedule for meetings and issues that might be addressed at meetings and explained the deadlines for legislation and budget that dictate the schedule. Mr. Huntington reviewed issues listed on the agenda and explained that the purpose of this meeting was to pick the issues and to accept priorities rather than to try to resolve these individual issues. Mr. Huntington summarized the following issues:

- new games
- the automated accounting and reporting system
- problem gambling
- tribal compacts, internet gaming and
- route operator contractual relationships

Mr. Huntington said that he felt that there needed to be meetings scheduled on the subjects of problem gambling and tribal compacts because of our statutes and the fact that these are ongoing issues that need to be aired at least every biennium.

Council members commented on the issues. Tim Carson indicated that to understand the new games issue, they need to understand how decisions are currently made and how this affects manufacturers. Mr. Carson further indicated that the subcommittee had concluded that a legislative fix would be needed as a solution to this issue. The Council discussed with Ben Kamerzel from the Gambling Control Division, the issues related to the video games becoming more complex. The Council members asked questions about the current standards including the use of the authority reference Scarne's in regulating video gambling games. The Council discussed the subcommittee report on new games that had been distributed. Sen. Mahlum commented on the need to be able to educate future legislators on this issue. John Tooke closed the discussion by stating that Montana is far behind other states in development of games. Sen. Mahlum then appointed a new subcommittee on the new games issue. The new subcommittee is made up of Tim Carson, Nick Murnion, and John Tooke. Tim Carson will serve as chairman of that committee.

### **AARS**

The Administrator reviewed plans to have a consultant review the Division's business processes that are related to the automated accounting and reporting system. This process should take approximately 90 days and information should be available for the next Council meeting. Attorney General McGrath and Representative Witt then commented on the success of the process of reviewing business practices in the Motor Vehicle

Division. Mr. Carson asked about future funding for the system. Mr. Huntington responded that the Division will look at funding as part of a new proposal with the hopes that we can find sources other than General Fund because of the lack of reliability from General Fund. A question was raised concerning the report from Joe Tien and its availability. Ben Kamerzel indicated that the report will be made available to the Council and the public.

### **Tribal Compacts**

Mr. Huntington reported that the Division will be negotiating four compacts in the coming year and that there will be important issues that the Council needs to be aware of. Sen. Mahlum indicated that after consulting with the Governor's attorney, he believes that the Council needs to be involved in the issues related to compacts.

### **Internet Gambling**

Cregg Coughlin, Assistant Attorney General, was introduced as the Division attorney. Mr. Coughlin gave a report on the NAGRA conference and the session on internet gaming. Mr. Coughlin reported that he had heard a presentation from the General Accounting Office on a major study outlining the potential ways of regulating internet gambling. Mr. Carson requested that Council members be provided with a copy of the GAO report. Mr. Tooke commented on his concerns about internet gambling and his perception of current legislation in Congress. Sen. Mahlum indicated that he had found websites that indicate that they prohibit betting from Montana. Mr. Huntington indicated that the discussion in the past Council had been about giving a specific clear prohibition in the law against Internet gambling. Nick Murnion commented, from a prosecutor's point of view, of having a statute that clearly addresses the issue.

### **Route Operator Contractual Relationships**

Division staff distributed a discussion paper outlining the concerns about route operator's loans to locations and trends and changes that they have seen in recent years. Mr. Huntington suggested that there had been a route operator's committee in the past and that there might be a way to have a subcommittee work with this group to review these issues. Council members questioned what new issues were raising these concerns and what ultimately might result from any new proposed rules. Sen. Mahlum asked what the concern was with these loans. Rick Ask explained that the suitability of the lender and the source of financing are issues of concern. Sen. Mahlum indicated that the Council would need more information on this matter before it can proceed and that the Division should work with route operators to bring back more information on both sides of the issue.

### **PUBLIC COMMENT ON ISSUES**

The first speaker was Rich Miller, Executive Director of the Gambling Industry Association. Mr. Miller indicated that GIA has been involved with the AARS system for

a number of years. GIA is interested in trying a proposal that would use in-house accounting packages. Mr. Miller further commented that from their point of view that the regulation of new games does not need to be related to live games.

Ronda Carpenter, representing the Montana Coin Machine Operators, presented comments. Ms. Carpenter indicated that the Coin Operators are willing to discuss the NIL route operator loan issues. She further indicated that their organization would like the Division to look at in-house accounting systems. Ms. Carpenter indicated that there is a need to do something with new games because players are losing interest. Ms. Carpenter concluded by stating that her organization has a number of problems with the proposed draft multi-game contract.

Terry Geurin representing IGT/VLC indicated that in terms of new games they were only looking at variations of keno and poker and not games that have not been approved in other states and not necessarily totally new games. Mr. Geurin further indicated that he does not believe that games are getting too complex, that development of these games is player driven and players understand the games.

Mark Ehli, Big B Bingo, indicated that an issue of concern to him was that under the department's regulation, Way Keno allows operators to pay out more than \$100 per card. However, the Division has not allowed for a "Big 6" Bingo game to pay out in a similar way. After questions and discussion, the Council requested that the Division bring back further analysis and information on this issue at a future meeting.

### **DISCUSSION OF PROPOSED RULES**

The first item was a request from the public, Mr. Randy Reger, to discuss a rule change he would like concerning modification of machines for which no manufacturer exists. Mr. Reger explained his problem with having machines that are old and no longer supported by any manufacturer and that he cannot get rights from the manufacturer. Mr. Reger explained he can no longer get currency that works in the bill acceptors; because the Division will only allow the manufacturer to modify the machine he cannot install new bill acceptors. Tim Carson raised concerns that allowing anyone other than the manufacturer to modify a machine could create other problems and that with the currency change the number of machine models that might be in this situation could increase substantially. Division staff raised concerns about having a process to determine if machines are orphaned machines. Mr. Huntington indicated that the issue had been addressed from both sides and that the Division will just have to arrive at a decision.

### **Rules Related to House Bill 758 – The Permit Surcharge**

The proposed rules and forms designating whether a licensee is a 20 machine establishment or is a less than 20 machine establishment, which will be heard on June 4 were distributed. Mr. Huntington briefly explained the history of the legislation and the need to develop the rules in order to allow the annual renewal process to go forward. Mr.

Huntington explained that the approach to the surcharge had been developed to try to keep the process as simple and straight forward as possible. Rhonda Carpenter and Rich Miller expressed concerns with the need for the designation process and concerns that they did not understand the legislation to provide for the proration of the surcharge.

#### **Senate Bill 40 – Proposed Changes in the Application Form, Fingerprinting and the Tolling of Applications**

Mr. Huntington reviewed Senate Bill 40 which will permanently implement the combined application process. The Division expects to have to develop rules related to fingerprinting, tolling of applications, and adopting a new application form. The Council asked questions concerning fingerprinting and where to obtain fingerprinting cards and where the fingerprinting will take place. Mr. Huntington explained that at this time it appears that all fingerprinting will be done by local law enforcement on cards to be provided by the Division.

#### **Multi-Game Agreements**

Mr. Huntington explained the background of House Bill 122 concerning the updated AARS legislation. At the time the legislation was introduced, it was anticipated that the AARS system settlement agreement might create a new system that would allow for multi-games to be installed. However, the Council had recommended that a provision be included in the law to allow those who agree to be hooked up to the AARS to have multi-games if it were not available. It is this provision in House Bill 122 that now must be implemented as soon as possible in order to allow manufacturers to plan for the multi-games. Mr. Huntington explained that in order to have people understand what would be in an agreement. The Division drafted an agreement that had gone through three drafts as the Division incorporated changes. The significant change in rules is the portion of the agreement that requires owners to acknowledge that a machine will meet the hardware and software requirements that will be adopted. This is the most controversial area of the proposed rules because it will require the Division to make its best estimate of what technology will be needed for a system that is in the future. The reason for doing this is to minimize conversion costs at the time that the Division has a system to implement.

Mr. Huntington further explained that because there is a concern about the permit fee, if the Division were to waive the permit fee as has been requested by some people in the industry it would require the Division to amend the rules. The final rule that may need to be developed is one that would allow a single chip set that would offer keno, bingo and poker and rules regarding how we would allow for those games to be turned on and turned off depending on whether the owner had signed an agreement to be part of AARS and the type of video gambling machine it is licensed as.

#### **FINAL BUSINESS**

Sen. Mahlum asked if there was any other new business to come before the Council and there being no new business, Sen. Mahlum indicated that the next meeting will likely be

in Polson and that a preliminary date would be August 22, 2003. The meeting adjourned at 2:05 p.m.